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Andrew T. Yule

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EXAMINER

MISLEH, JUSTIN P

ART UNIT

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2622

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

1. Applicant's arguments filed February 4, 2009 have been fully considered but they are not persuasive.

First Issue

2. Applicant argues, "A **conventional GPS receiver** operates by receiving, sampling, and processing GPS signals without storing them. This mode of operation is sufficient for the purposes of the method disclosed by Baldino. Moreover, Baldino gives no hint that anything other than a **conventional GPS receiver** is being employed" (emphasis added by Examiner).

3. The Examiner respectfully disagrees with Applicant's position. Applicant defines a "conventional GPS receiver" on page 1, lines 15 and 16, of the specification – Applicant cites US 6,269,446 B1 (Schumacher et al.) as showing a "conventional GPS receiver." Schumacher et al. describe this "conventional GPS receiver," in column 3 (lines 24-27): "GPS unit 30 obtains GPS-derived data such as time and location data through conventional triangulation techniques using the GPS grid of orbital satellites."

4. Additionally, all that is known regarding the GPS receiver of Baldino is stated in column 4, lines 1-10: "The GPS receiver module 424 supplies the processor 410 with precise latitude and longitude information ... the processor also adds location information (or location 'metadata') to the image data in an image file ... in the form of a header entry or a watermark in the image."

5. Based on the respective simplicity of these disclosures and lack of additional submitted evidence, the Examiner respectfully submits it is impossible to determine that the GPS receiver disclosed in Baldino is the same as the conventional GPS receiver disclosed in Schumacher.

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Moreover, these facts alone certainly do not prove Applicant's allegation that Baldino does not store the GPS signal samples.

6. In fact, the specific contents and/or operation of both Baldino's and Schumacher's GPS receivers are not known, respectively. However, the Examiner contends, in both the Non-Final and Final Action (mailed 6/2/08 and 11/18/08, respectively), that in order for basic successful operation of Baldino's invention, the device shown in figure 4 must sample, process and store GPS signals.

7. However, while "Applicant agrees that Baldino must receive and sample the GPS signals;" Applicant further argues, "Baldino is concerned only with supplying position information (precise latitude and longitude information) for inclusion with image data in an image file, as described at column 4, lines 1 to 10. This does not indicate, either explicitly or implicitly, any storage of signal samples. Rather, it implies that GPS signals are processed at the receiver as they are received, to produce the latitude and longitude information" (see Amendment, page 6) (emphasis added by Applicant).

8. Applicant continues, "Although, from a purely technical standpoint during the act of processing there would typically be a transient 'storage' of each individual sample of a signal (each at a different instant in time), for example, in a register of a processor, a person of ordinary skill in the art would not regard this transient existence of the sample in the processing pipeline as constituting 'storing ... signal samples' in the context of claim 1" (see Amendment, page 6) (emphasis added by Examiner).

9. Again, the Examiner respectfully disagrees with Applicant's position. In summary, Applicant has not provided any evidence to support the allegation that "a person of ordinary skill

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in the art would not regard this transient existence of the sample in the processing pipeline as constituting ‘storing ... signal samples.’” MPEP §2111 gives the Examiner freedom of applying the broadest reasonable interpretation to the claim language, so long as limitations from the specification are not read into the claims. Specifically, the Federal Circuit has held that evidence that supports the interpretation one with ordinary skill in the art to the claim language would typically be analogous arts using the same phrase/technology. See MPEP §2111 citing *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468. Applicant has failed to produce any such evidence. Therefore, the transient storage period discussed above is sufficient to support the Examiner’s contention that in order for successful operation of Baldino’s invention, the device shown in figure 4 must sample, process and store GPS signals.

10. Thus, at least for these reasons, the rejection will be maintained.

Second Issue

11. Applicant additionally argues, “Applicant notes that in the arguments filed on 01 October 2008, Applicant also rebutted the Examiner’s assertion that Baldino discloses ‘subsequently processing the GPS signal samples to obtain a position fix.’ The Examiner had previously asserted that this feature was disclosed at column 4, lines 11 to 45 of Baldino. Applicant notes that the Examiner has not responded to this rebuttal, and respectfully requests the Examiner’s response.

“Similarly, Applicant also presented arguments speaking to the novelty of claim 2, which the Examiner had also rejected as anticipated by Baldino. These arguments have again not been addressed by the Examiner’s response, yet the Examiner maintains the rejection of claim 2.

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Again, Applicant respectfully requests the Examiner's response to Applicant's rebuttal, so that Applicant might better understand the grounds of rejection."

12. In response to Applicant's concerns, as described above, Baldino samples, processes and store GPS signals to produce "location information". This "location information" is added to the image data in an image file to be stored in memory, wherein the location information is stored either in the form of a header entry or a watermark in the image, or both. Baldino subsequently discloses that a display circuit receives the image file for further processing. A library of special icons corresponding to predefined GPS latitude-longitude combinations (from the GPS metadata) supplies preexisting icons to the CPU for display. All these features are disclosed in column 4, lines 11 – 45 of Baldino. The very fact Baldino stores the location information, which is based on sampling, processing and storing of GPS signals, in the image data file as a metadata entry such that image may be processed at a later time to obtain a position fix and append the position fix to the image file is a clear indication that Baldino discloses subsequently processing the GPS signal samples to obtain a position fix and appending the position fix to the image file, wherein the processing is done after an intentional delay has elapsed from the sampling, processing and storing of the GPS signals.

13. Thus, at least for these reasons, the rejection will be maintained.

Third Issue

14. Applicant argues, "It is clearly stated (line 11) that the display circuit receives the digital image file. The image file includes 'location information' (line 6). Note that it does not include GPS signal samples - the 'location information' is precise latitude and longitude information

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(lines 2-3). The only ‘processing’ carried out by the computer is to convert the location data into one or more ‘icons’ having a likeness corresponding to the geographic region of capture (col. 2, lines 41-46, also col.4, lines 29-33).” (see Amendment, paragraph spanning pages 8 and 9).

15. The Examiner respectfully disagrees with Applicant position. The Examiner respectfully submits there is no language in Claim 15 to distinguish Baldino’s “location information” from the “GPS signal samples” recited in the claim. In fact, as clearly described throughout this response, Baldino’s “location information” includes “GPS signal samples.” Therefore, Baldino’s disclosure goes above and beyond that which is required by Claim 15. For this reason, the rejection will be maintained.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner’s supervisor, David Ometz can be reached on 571.272.7593. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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/Justin P. Misleh/

Primary Examiner

Group Art Unit 2622

February 24, 2009